

**REMARKS**

**Summary Of The Office Action & Formalities**

**Status of Claims**

Claims 1-8 are all the claims pending in the application. Claims 7-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. By this Amendment, Applicant is amending claims 1 and 2, and adding new claims 9-11. No new matter is added.

**Claim to Foreign Priority**

Applicant thanks the Examiner for acknowledging the claim to foreign priority and for confirming that the certified copy of the priority document was received.

**Information Disclosure Statement**

Applicant also thanks the Examiner for initialing the references listed on form PTO/SB/08 submitted with the Information Disclosure Statement filed on November 14, 2003.

**Specification**

Applicant is amending the abstract of the disclosure to address the Examiner's objection.

**Claim Rejections - § 112**

Claims 2-4 are rejected under 35 U.S.C. § 112, second paragraph, for the reason set forth at page 2 of the Office Action. Applicant is amending the claims to overcome this rejection.

**Allowable Subject Matter**

Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, set forth in this Office Action and to include all of the limitations of the base

claim and any intervening claims. Applicant has added new claim 11, which is claim 4 rewritten in independent form. Claim 11 is therefore allowable.

**Art Rejections**

Claims 1-3 and 5-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Favre (US 5,411,176).

Applicant respectfully traverses.

**Claim Rejections - 35 U.S.C. § 102**

*1. Claims 1-3 And 5-6 In View Of Favre (US 5,411,176).*

In rejecting claims 1-3 and 5-6 in view of Favre (US 5,411,176), the grounds of rejection state:

Favre shows a fluid dispenser comprising two dispensing members 3, 4, dispensing head 3', 4', pusher 9 and flexible spacer 41.

Office Action at pages 2-3.

Contrary to what is stated in the grounds of rejection, member 41 in figure 3 of Favre 176 is not a flexible spacer as required by claim 1. Although member 41 is made of elastomeric material, it is fixed (not deformable and not rotatable). Only the control member (see Fig. 1) is rotatable. This member 9 cooperates with member 41 in order to vary the flow rate of fluid at the outlet of the dispenser, the rest of the dose being returned to the reservoir (see col. 2, lines 59 to 63).

Moreover, it is clear from the disclosure of Favre that member 41 does not allow the heads 3' and 4' to move relative to each other with a deformation thereof as recited in claim 1. Claim 1 is therefore novel and non-obvious and the Examiner is kindly requested to reconsider

and withdraw the rejection of the claim 1. Regarding claims 2, 3, 5, and 6, the grounds of rejection do not specifically address the limitations of these claims. Moreover, these claims are allowable at least by reason of their respective dependencies.

**New Claims**

For additional claim coverage merited by the scope of the invention, Applicant is adding new claims 9 and 10, which are allowable, because the art does not teach or suggest a spacer connecting the first dispensing head to the second dispensing head, the spacer being flexible so that the first dispensing head and the second dispensing head are rotatably displaceable relative to each other upon deformation of the spacer, thereby varying a relative angle between the first dispensing head and the second dispensing head with respect to a vertical axis of the dispenser that extends parallel to an actuation direction of the dispenser. Claim 11 is allowable as noted above.

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

*Amendment Under 37 C.F.R. § 1.111*  
*U.S. Application No. 10/048,056*

*Attorney Docket No.: Q68190*

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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